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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/706,588	11/12/2003	Lawrence E. Brice	MPD-10502/08	6678	
25006	7590	04/08/2004			
GIFFORD, KRASS, GROH, SPRINKLE ANDERSON & CITKOWSKI, PC 280 N OLD WOODARD AVE SUITE 400 BIRMINGHAM, MI 48009				EXAMINER HEWITT, JAMES M	
ART UNIT	PAPER NUMBER	3679			

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/706,588	BRICE, LAWRENCE E.
	Examiner	Art Unit
	James M Hewitt	3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6, 10-14 is/are rejected.
- 7) Claim(s) 7-9 and 15-29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 November 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/12/04
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because in Figure 2, numeral "38", for the spacer means, seems to reference one of the port members instead. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

On page 1 line 4, "2003" should be "2002".

Appropriate correction is required.

### ***Claim Objections***

Claims 1-29 are objected to because of the following informalities:

In claim 1 line 11, the second instance of "a" should be replaced with "the".

In claim 3 lines 1-2, it is unclear as to which clamp member the phrase "said clamp member" references; "each clamp member"?

In claim 6 line 2, it is unclear as to which sidewall the phrase "said sidewall" references; "each sidewall"?

In claim 7 lines 2-3, "the fastener" lacks antecedent basis. Should the claim depend from claim 2?

In claim 15 line 14, "each" should be inserted before "port member".

In claim 15 line 17, "a" should be replaced with "the".

In claim 15 line 18, "each" should be inserted before "said".

In claim 15 line 22, "flange" should be "flanges".

In claim 17 line 2, it is unclear as to which sidewall the phrase "said sidewall" references; "each sidewall"?

In claim 17 line 3, it is unclear as to which port member flange the phrase "said port member flange" references; "each said port member flange"?

In claim 20 lines 1-2, the phrase "further comprising two port members disposed in the clamp member channel," should be deleted.

In claim 21 lines 1-2, it is unclear as to which port member connecting portion the phrase "said port member connecting portion" references; "each said port member connecting portion"?

In claim 22 line 14, "each" should be inserted before "port member".

In claim 22 line 17, "a" should be replaced with "the".

In claim 22 line 18, "each" should be inserted before "said".

In claim 22 line 22, "flange" should be "flanges".

In claim 24 line 2, it is unclear as to which sidewall the phrase "said sidewall" references; "each sidewall"?

In claim 24 line 3, it is unclear as to which port member flange the phrase "said port member flange" references; "each said port member flange"?

In claim 27 lines 1-2, the phrase "further comprising two port members disposed in the clamp member channel," should be deleted.

In claim 28 lines 1-2, it is unclear as to which port member connecting portion the phrase "said port member connecting portion" references; "each said port member connecting portion"?

In claim 29 lines 1-2, it is unclear as to which port member connecting portion the phrase "said port member connecting portion" references; "each said port member connecting portion"?

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-6, 10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gasche (US 3,398,978).

With respect to claim 1, Gasche discloses a clamp assembly for interconnecting components in a fluid system comprising: two interconnected clamp members (11, 12) each having a C-shape that form a channel; a spacer (21) disposed within said channel,

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wherein said spacer includes a centrally located bore defining a part of a central passageway for the transmission of a fluid; at least one port member (6, 7) disposed in said clamp member channel adjacent said spacer, wherein said port member includes a center portion with a clamping portion at one end of said center portion and a connecting portion at the opposite end and a longitudinally extending bore defining part of a central passageway for the transmission of the fluid; and a flange (8) extending radially from said port member clamping portion, wherein said flange has a predetermined shape corresponding to that of said clamp member channel, so that a plurality of clamping forces from said clamp members are directed radially inwards from points of contact between said flange and said clamp members to provide cross loading.

With respect to claim 2, further comprising a fastener (19, 20) for interconnecting said clamp members.

With respect to claim 3, wherein each said clamp member includes a longitudinally extending bore for receiving the fastener for interconnecting the clamp members.

With respect to claim 5, wherein each clamp member includes two sidewalls (straight portions receiving the fastener) and an outer wall (curved portion) disposed between said sidewalls to cooperatively form said clamp member channel.

With respect to claim 6, wherein a free edge of said sidewalls has a predetermined shape to define an opening corresponding to the predetermined shaped of said port member flange. Refer to Figure 1.

With respect to claim 10, further comprising two port members disposed in the clamp member channel, wherein one port member is an inlet port member and the other is an outlet port member.

With respect to claim 13, wherein said port member flange and said clamp member channel each have a circular shape.

With respect to claim 14, wherein said port member connecting portion has a circular shape for interconnecting the fluid system components.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gasche (US 3,398,978).

With respect to claim 4, Gasche fails to teach or fairly suggest a mounting bracket for holding the clamping assembly. The Examiner takes official notice of the use of a mounting bracket to hold and support a clamping assembly.

With respect to claims 11 and 12, Gasche fails to teach that the port member flange, clamp member channel and port member connecting portion have an octagonal shape. As Applicant allows for different shapes for the port member flange, clamp member channel and port member connecting portion, and since it has been held that a

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change in shape involves only routine skill in the art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gasche's port member flange, clamp member channel and port member connecting portion to be octagonal.

### ***Allowable Subject Matter***

Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-9 and 15-29 are objected to (see ***Claim Objections*** above), but would be allowable if rewritten to overcome the above noted objections.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JM*  
James M. Hewitt  
Patent Examiner  
Technology Center 3600